

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David B. Kay

Examiner: Unknown

Serial No. Not Assigned

Group Art Unit: Unknown

Filed:

Date: March 12, 2001

For: **OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD OF
FACILITATING HEALING**

Commissioner of Patents and Trademarks
Washington, DC 20231

PETITION TO REINSTATE

Applicant hereby petitions the Commissioner to reinstate the above-noted PCT Application and to afford it a filing date of February 19, 1998, as a National Filing in the United States Patent and Trademark Office.

REMARKS

On August 19, 1996, applicant filed a PCT Application PCT/US96/13570 claiming priority to U.S. Application Serial No. 08/517,259 filed August 23, 1995. Attached herewith is a notification of status requirements under 35 U.S.C. §371 dated September 24, 1996. This notification indicates that the U. S. Patent and Trademark Office, in its capacity as designated office, received a copy of the International Application and needed the following items in order to complete National Filing:

The U.S. National Fee
An Oath or Declaration, and
Amendments Under PCT Article 19, if any.

These items were filed by the Applicant on February 19, 1998.

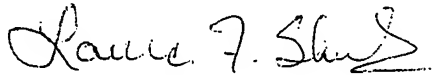
Enclosed herewith is a copy of the Express Mail Certificate indicating the filing of the required items in a timely fashion. Specifically, Applicant enclosed a transmittal letter electing the U. S. Patent and Trademark Office, including a fee tabulation and authorization to charge deposit account 08-3150. A check was also enclosed for \$128.00 (copy of the front and back of original check enclosed). In addition, a return postcard, executed Declaration and Power of Attorney, Information Disclosure Statement and 17 references, Declaration for Utility or Design Patent Application, Verified Small Entity Statement, and a Rule 34 Amendment were also enclosed. Copies of the February 19, 1998 Express Mail Air bill, of the date stamped and returned postcard (somehow stamped January 19, 1998 by the PTO mailroom), and of the check are enclosed herewith to verify the date of the transmittal. The check was cashed by the U.S.

Patent and Trademark Office indicating that the application was accepted for National Filing. However, no filing receipt or action has been received.

It is believed that the PTO inadvertently misplaced the documentation, which would have resulted in a U.S. filing date for this application. The applicant's undersigned representative was subsequently contacted by Mr. Darrell Cottman of the U.S. Patent and Trademark Office who indicated that he had received the Information Disclosure Statement and check, but did not have the remainder of the newly filed case. It was believed that this was a matter to be solved between the PCT Office and the U.S. Patent Office in the first instance since the PCT Office indicated that it had forwarded the International Application, and the check had been cashed. Further it is believed that the applicant met all the requirements necessary to be accorded a U.S. filing date as of February 19, 1998, and it is respectfully requested that this case be reinstated effective nunc pro tunc.

Respectfully submitted,

HUDAK & SHUNK CO., L.P.A.



Laura F. Shunk
Registration No. 31,423

LFS/sms

7 West Bowery Street
Suite 808
Akron, OH 44308-1133
Telephone: (330) 535-2220
Facsimile: (330)-535-1435

ATTORNEY DOCKET NO.: ORTHO-A-CIP-PCT-US

~~10/089048~~

32 Rec'd PCT/PTO 23 JAN 2002

HUDAK & SHUNK CO., L.P.A.
INTELLECTUAL PROPERTY LAW
SUITE 808
7 WEST BOWERY STREET
AKRON, OH 44308-1133

DANIEL J. HUDAK
LAURA F. SHUNK
CHERYL L. FARINE
MICHELE M. TYRPAK
DANIEL J. HUDAK, JR.

Telephone: 330-535-2220
Facsimile: 330-535-1435

January 23, 2002

Of Counsel
FRANK C. ROTE
PA BAR ONLY
NESTOR W. SHUST
MI BAR ONLY
THOMAS M. SCHMITZ

Jeremy Fleming
Paralegal Specialist
PCT Legal Office
United States Patent Trademark Office
Washington, DC 20231

RECEIVED
23 JAN 2002
Legal staff
International Division

RE: David B. Kay
Appl. No. Not Assigned
PCT No. PCT/US96/13570; Int. Filing Date: 19 August 1993
Priority Date: 22 August 1995
For: OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD OF
FACILITATING HEALING
Attorney Docket No.: ORTHO-A-CIP-PCT-US

Dear Mr. Fleming:

I appreciate your attention to this application. Pursuant to our phone conversation I have enclosed copies of the most recent Petition to accord a filing date, filed December 5, 2001, along with a copy of the check and of the Express Mail label and return postcard. Also enclosed is a copy of the March 12, 2001 Petition to Reinstate. Finally, I have also enclosed copies of all of the papers filed on February 19, 1998, notably, a copy of the application, an executed Declaration and Power of Attorney, an Information Disclosure Statement and 17 references, a Rule 34 Amendment, a copy of the check to enter national phase, and a copy of the transmittal letter.

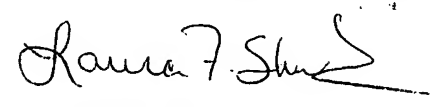
Please call me should you have any other questions. I anticipate an expedient resolution in favor of the applicant.

03/24/1998 PVOLPE 00000122 PCT/US96/13570

Adjustment date: 10/04/2002 SNAJARRO
03/24/1998 PVOLPE 00000122 PCT/US96/13570
~~51 FC:963~~ ~~120.00 OP~~

Very truly yours,

HUDAK & SHUNK CO., L.P.A.



Laura F. Shunk

10/04/2002 SNAJARRO 00000004 083150 10089105

01 FC:963 50.00 OP
02 FC:965 6.00 CH 78.00 OP

LFS/sms
Encls.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David B. Kay

Examiner: Unknown

Serial No. Not Assigned

Group Art Unit: Unknown

Filed:

Date: March 12, 2001

For: **OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD OF
FACILITATING HEALING**

Commissioner of Patents and Trademarks
Washington, DC 20231

CERTIFICATE OF MAILING

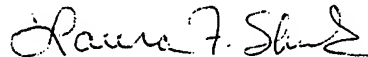
Sir:

The undersigned hereby certifies that the enclosed **PETITION TO REINSTATE** was mailed to the Assistant Commissioner of Patents, Washington, D.C. 20231, with sufficient first-class postage, no special handling, on March 12, 2001, before 5:00 PM, thereby ensuring that such document(s) will be in the hands of the U.S. Postal Service by the close of business this day.

The Commissioner is hereby authorized to charge any fees which might be required or credit any overpayment of fees with regard to the attached document(s) to Account No. 08-3150.

Respectfully submitted,

HUDAK & SHUNK CO., L.P.A.



Laura F. Shunk
Registration No. 31,423

LFS/sms

7 West Bowery Street
Suite 808
Akron, OH 44308-1133

Telephone: (330) 535-2220
Facsimile: (330)-535-1435

ATTORNEY DOCKET NO:

ORTHO-A-CIP-PCT-US

~~10/000048~~

3 Rec'd PCT/PTO 23 JAN 2002

Date: March 12, 2001

File: Ortho-A-CIP-PC

stamp of the Patent Office hereon may be taken as acknowledging receipt on the US
date stamped of

Return Postcard; Certificate of Mailing;
Petition to Reinstate; 2/19/98 Express
Mail Certificate; Date stamped and return
postcard; copy of front and back of fee
check mailed 2/19/98

JC13 Rec'd PCT/PTO 15 MAR 2001



in the following application:

Applicant: David B, Kay

Serial No.: Not Assigned

For: OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD
OF FACILITATING HEALING

LFS/sms

~~10/089048~~

13 Rec'd PCT/PTO 23 JAN 2002

JC14 Rec'd PCT/PTO 05 DEC 2001

Date: December 5, 2001

File: ORTHO_A_CIP_PCT_US

The stamp of the Patent Office hereon may be taken as acknowledging receipt on the date stamped of

Facsimile Confirmation Page

Return Postcard

Petition to Accord Filing Date;

Statement of Laura F. Shunk; Copy of Appl.

Copy of Return Postcard (2/19/98);

Copy of Express Mail Receipt; Copy of

Petition to Reinstate (3/12/01 and copy of postcard;

Copy of Status Inquiry and copy of postcard (7/23/01

in the following application:

Applicant: David Kay

Serial No.: PCT/US96/13570 claiming priority to US 08/517,259

For: OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD OF

ACILITATING HEALING

LFS/sms

Wx

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~~10/009048~~
63 Rec'd PCT/PTO 23 JAN 2002

ORTHO-A-CIP-PCT
File:

1 : express mailed 2/19/98

The stamp of the Patent Office hereon may be taken as acknowledging receipt on the date stamped of

Express Mail Certificate
Return Postcard
Application Transmittal Letter (in triplicate)
Executed Declaration and Power of Attorney
Information Disclosure Statement: PTO Form-1449
17 Reference copies
Declaration for Utility or Design Patent Appl
Verified Statement Claiming Small Entity Status
in Rule 34 Amendment
in the following application:

Applicant: Ortho Heliz Limited

Serial No.: PCT/US96/13570

For: OPEN HELICAL ORGANIC TISSUE ... HEALING

63 Rec'd PCT/PTO 19 JAN 1998
EFS/18

RECEIVED
JAN 21 1998

3 Rec'd PCT/PTO 23 JAN 2002

Practitioner's Docket No. Oral A-Cip-PCT-US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Kay, David B.**

Application No.: Unknown

Group No.: Unknown

Filed: 02/19/1998

Examiner: Unknown

**For: OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD OF FACILITATING
HEALING****Assistant Commissioner for Patents
Washington D.C. 20231****STATUS INQUIRY**

1. More than four months have passed since the filing of the Petition to Reinstate on March 12, 2001. No communication has been received from the Patent and Trademark Office indicating action on this application, which was filed through the PCT Office February 19, 1998. Immediate Reinstatement is earnestly solicited. A copy of the Petition (without enclosures) is enclosed herewith.

2. Kindly advise the undersigned of the present status of this application, by checking the appropriate box on the next page. A stamped return-addressed envelope is provided.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

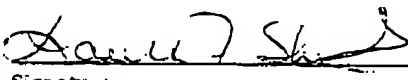
MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office.

Date:

July 23, 2001
SignatureLaura F. Shunk

(type or print name of person certifying)

(Status Inquiry--page 1 of 2)

~~10/000010~~

RECEIVED 23 JAN 2002

Date: July 23, 2001Reg. No.: 31,423
Tel. No.: 330-535-2220Laura F. Shunk
Signature of PractitionerLaura F. Shunk
Hudak & Shunk Co., L.P.A.
Suite 808
7 West Bowery Street
Akron, OH 44308

STATUS INQUIRY REPLY

APPLICATION NO. (UNKNOWN) IS CURRENTLY

☐ ASSIGNED TO GROUP (UNKNOWN) AND AWAITS:☐ ACTION BY THE EXAMINER.☐ APPLICANT'S RESPONSE TO THE OFFICE ACTION MAILED

(Status Inquiry--page 2 of 2)

~~10/009048~~
13 Rec'd PCT/PTO 23 JAN 2002

Date: July 23, 2001

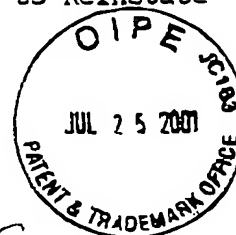
File: Ortho-A-CIP- P-U

The stamp of the Patent Office hereon may be taken as acknowledging receipt on the date stamped of

Return Postcard

Status Inquiry and COM

Copy of Petition to Reinstate



in the following application:

Applicant: Kay

Serial No.: Not Known 08/517,259

OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD OF
FACILITATING HEALING

LFS/sms

~~107-089048~~
JC13 Rec'd PCT/PTO 23 JAN 2002

CERTIFICATE OF MAILING BY EXPRESS MAIL
UNDER 37 CFR 1.10 - SEPARATE PAPER

Applicant: Ortho Helix Limited
Kay, David B.

International Application No.: PCT/US96/13570

International Filing Date: August 19, 1996

Title: OPEN HELICAL ORGANIC TISSUE ANCHOR AND METHOD
OF FACILITATING HEALING:

Examiner: Jeffrey A. Schmidt

EM469728491US

"EXPRESS MAIL" LABEL NO.: EM469728491US

DATE OF DEPOSIT: 2/19/98

I hereby certify that this paper or fee is being deposited in the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to BOX PCT, Assistant Commissioner of Patents & Trademarks, Washington, D.C. 20231.

Respectfully submitted,

HUDAK & SHUNK CO., L.P.A.

Laura F. Shunk

Laura F. Shunk
Agent for Applicant
Registration No. 31,423

LFS/lb

7 West Bowery Street, Suite 808
Akron, OH 44308-1133
Telephone: (330) 535-2220

Attorney Docket No.: ORTHO-A-CIP-PCT-US

Enclosures:

Express Mail Certificate
Return Postcard
Application Transmittal Letter (PTO Form-1390)(in triplicate)
Executed Declaration and Power of Attorney
Information Disclosure Statement; PTO Form-1449; and 17 reference copies
Declaration for Utility or Design Patent Application (2 pages)
Verified Statement (Declaration) Claiming Small Entity Status
Rule 34 Amendment

13 Rec'd PCT/PTC 23 JAN 2002



HUDAK & SHUNK CO., L.P.A.

LANDMARK BLDG.
156 S. MAIN ST., STE. 808
AKRON, OHIO 44308.

9.008.

$$\begin{array}{r} 56-258 \\ \hline 412 \end{array} \quad 485$$

 Feb. 19, 1998

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~~Assistant Commissioner of Patents~~ \$= \$28.00

DEPT. 7-7-7-7 Security features included. Details on back.

~~One-Hundred Twenty-eight~~

STAR BANK N.A.

ORTHO-A-GIP-PCT

Michelle Person

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300 NORTH 1ST ST. APT. 1000, PHOENIX, AZ 85004
TEL: 501.401.7615 MO: 603.2100.1591 FAX: 501.401.7615

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INCLARINGS
CLF

1STED
0520-0027-8
03-26-98

[illegible]

13-10-0001
03-24-1998
FOR CREDIT TO THE
U.S. TREASURY